



**PLANNING COMMISSION REGULAR MEETING
THURSDAY, MAY 23, 2024**

BAINBRIDGE ISLAND CITY HALL
COUNCIL CHAMBERS
280 MADISON AVENUE N.
BAINBRIDGE ISLAND, WASHINGTON

AGENDA

1. **CALL TO ORDER/LAND ACKNOWLEDGMENT/AGENDA REVIEW - 6:00 PM**
We would like to begin by acknowledging that the land on which we gather is within the ancestral territory of the Suquamish, "People of Clear Salt Water." Expert fishermen, canoe builders and basket weavers, the Suquamish live in harmony with the lands and waterways along Washington's Central Salish Sea as they have for thousands of years. Here, the Suquamish live and protect the land and waters of their ancestors for future generations as promised by the Point Elliot Treaty of 1855.
2. **PLANNING COMMISSION MEETING MINUTES - 6:05 PM**
Review and approve meeting minutes.
 - 2.a **Minutes** 5 Minutes
[PC Minutes 05092024.pdf](#)
3. **PUBLIC COMMENT - 6:10 PM**
 - 3.a **Public Comment** 10 Minutes
[Instructions for Providing Public Comment at Hybrid Meetings.pdf](#)
4. **UNFINISHED BUSINESS - 6:20 PM**
 - 4.a **Puget Sound Energy (PSE) Code Amendment Requests - Draft Ordinance for Review** 30 Minutes
[DRAFT Ordinance No. 2024-04 Utility Regulations_5.17.2024.pdf](#)
[DRAFT Ordinance No. 2024-04 Exhibit A.pdf](#)
[DRAFT Ordinance No. 2024-04 Exhibit B.pdf](#)
[DRAFT Ordinance No. 2024-04 Exhibit C.pdf](#)
5. **PLANNING DIRECTOR'S REPORT & ONGOING DISCUSSION - SB5290 PERMIT REVIEW TIMES - 6:50 PM**
6. **FOR THE GOOD OF THE ORDER - 6:55 PM**

7. ADJOURNMENT - 7:00 PM

GUIDING PRINCIPLES

Guiding Principle #1 - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

Guiding Principle #2 - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

Guiding Principle #3 - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

Guiding Principle #4 - Consider the costs and benefits to Island residents and property owners in making land use decisions.

Guiding Principle #5 - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

Guiding Principle #6 - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Guiding Principle #7 - Reduce greenhouse gas emissions and increase the Island's climate resilience.

Guiding Principle #8 - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



Planning Commission meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the Planning & Community Development Department at (206) 780-3750 or pcd@bainbridgewa.gov by noon on the day preceding the meeting.

Public comment may be limited to allow time for the Commissioners to deliberate. To provide additional public comment, email your comment to pcd@bainbridgewa.gov or mail it to Planning and Community Development, 280 Madison Avenue North, Bainbridge Island, WA 98110.



CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: May 23, 2024

ESTIMATED TIME: 5 Minutes

AGENDA ITEM: Minutes

AGENDA CATEGORY: Minutes

PROPOSED BY: Renee Argetsinger

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):**

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:

I approve the May 9, 2024, meeting minutes as presented.

SUMMARY:

BACKGROUND:

ATTACHMENTS:



Planning Commission Regular Meeting May 9, 2024

Meeting Minutes

1) **CALL TO ORDER/LAND ACKNOWLEDGMENT/AGENDA REVIEW**

Acting Chair Ben Deines called the meeting to order at 6:07 PM and read the Land Acknowledgement. No conflicts of interest were disclosed. Acting Chair Deines started meeting by accepting nominations to elect a new Planning Commission Chair, Vice-Chair, and Steering Committee representative. After the vote for Chair and Vice Chair, Commissioner Ariel Birtley assumed her new role as Chair of Planning Commission and conducted the remainder of the meeting.

MOTION: I nominate Commissioner Ariel Birtley to the Chair position on the Planning Commission.

Blossom/Garcia: The motion carried, 5 – 0, Abstained: Birtley and Sullivan.

MOTION: I nominate Commissioner Sarah Blossom as Vice Chair of the Planning Commission.

Deines/Schaab: The motion carried unanimously, 7-0.

MOTION: I nominate Commissioner Peter Schaab to be the Planning Commission representative to the Comprehensive Plan and Winslow Subarea Plan Steering Committee.

Deines/Garcia: The motion carried unanimously, 7-0.

2) **PLANNING COMMISSION MEETING MINUTES**

2.a [Minutes](#)

[Cover Page](#)

[Planning Commission Meeting Minutes 04252024.pdf](#)

MOTION: I approve the March 28, 2024, meeting minutes as presented.

Garcia/Schaab: The motion carried unanimously, 7-0.

3) **PUBLIC COMMENT**

3.a [Public Comment](#)

[Cover Page](#)

[Instructions for Providing Public Comment at Hybrid Meetings.pdf](#)

No public comments made.

4) **PUBLIC PARTICIPATION MEETINGS**

4.a **[PUBLIC PARTICIPATION MEETING - Fort Ward Barracks Renovation](#)**

[Cover Page](#)
[Applicant's Project Narrative.pdf](#)
[Site Plan.pdf](#)

Chair Birtley opened the PPM and Senior Planner Tayara Senior Planner Kelly Tayara introduced the project and the representative from McLennan Design - Galen Carlson, who provided more information on the history of the barracks and the project plans.

Public Comments for the Fort Ward Barracks Renovation -

1. Ms. Kathy Hansen - spoke in favor of the project and asked question about operation hours.
2. Mr. Tom Hansen - expressed concern about traffic and viability of the café
3. Mr. Matt Malouf - expressed concern about traffic and offered recommendations for traffic-calming management
4. Ms. Catherine Grant - asked questions about the parking area to the north of the parcel.

Action: Information Only.

4.b PUBLIC PARTICIPATION MEETING - Eagle Harbor Welding Shop (Washington State Ferries)

[Cover Page](#)
[Project Description and Design Narrative.pdf](#)
[Site Plan.pdf](#)
[Pre-App Letter Revised 29FEB2024.pdf](#)

Chair Birtley opened this PPM and Senior Planner Kelly Tayara introduced the project and the WA DOT presenters - Mr. Frank Fiedler and Mr. Tim Clansy who provided detailed information regarding the project.

No public comments.

Action: Information Only.

5) PLANNING DIRECTOR'S REPORT & ONGOING DISCUSSION OF SB5290 - PERMITTING REVIEW TIMES

5.a SB 5290 - New Permit Processing Review Time

[Cover Page](#)
[May 9 Planning Commission on Permitting.pptx](#)

Director Charnas provided a brief status report on projects concerning the Planning Commission. She then presented a PowerPoint of information regarding SB5290 - the permit processing review times.

Action: Information Only.

6) FOR THE GOOD OF THE ORDER

Nothing offered.

7) ADJOURNMENT – 8:23 PM.

Ariel Birtley, Chair

Renee Argetsinger, Clerk to the Planning Commission

DRAFT



CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: May 23, 2024

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: Public Comment

AGENDA CATEGORY: Discussion

PROPOSED BY: Renee Argetsinger

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):**

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:
Instructions for Providing Public Comment.

SUMMARY:

BACKGROUND:

ATTACHMENTS:

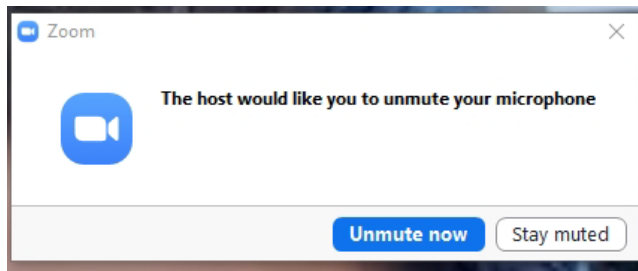


PLANNING AND COMMUNITY DEVELOPMENT

Members of the public are encouraged to submit written public comment to the Planning Commission at any time by emailing Commissioners directly or sending comments to pcd@bainbridgewa.gov and City staff will forward your comment directly to Commissioners on your behalf. Members of the public who wish to provide public comment may attend the meeting in Council Chambers or may participate remotely by following the instructions outlined below. If you are attending in-person, please sign up to speak on the sign-in sheet by the Chamber doors. The Chair or Acting Chair will call the people signed up on the sign-in sheet in Council Chambers first, and speakers will have three minutes to speak from the podium. Following the in-person comment, people who have raised their hands in the Zoom meeting will be called on next. A timer on the screen will indicate when 3 minutes have elapsed. Guidelines for public comment are also attached.

INSTRUCTIONS FOR PROVIDING PUBLIC COMMENT REMOTELY

1. Join the Zoom webinar by following the link posted on the agenda and on the City calendar.
2. Sign in to Zoom with your full name.
3. The Chair will indicate when it is time for public comment.
4. Attendee indicates desire to speak by clicking on “Raise Hand” option at the bottom of the screen. If you are calling in by phone and would like to make a comment, *6 mute/unmute *9 raise/lower hand to be called on to speak.
5. Attendee clicks button “Unmute now” after they are called to speak by the Chair.



6. Attendee will appear on screen with other panelists, but without video, just name.

IMPORTANT NOTE: If you do not have the latest version of Zoom, you will be promoted to panelist. You will then appear with video enabled. Look for the video icon in the bottom left-hand corner of the screen to turn off your video.

7. Attendee provides comment.
8. A timer on the screen will track your time.
9. Stop speaking when the timer reaches the 3-minute mark.
10. Attendee is returned to attendee group, and microphone is muted.
11. Public comment is simply received by the Planning Commission, with no response.



CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: May 23, 2024

ESTIMATED TIME: 30 Minutes

AGENDA ITEM: Puget Sound Energy (PSE) Code Amendment Requests - Draft Ordinance for Review

AGENDA CATEGORY: Discussion

PROPOSED BY: Jo Mendenhall

PREVIOUS PLANNING COMMISSION

REVIEW DATE(S): February 22, 2024, March 14, 2024, March 28, 2024, and April 25, 2024

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:

Information only

SUMMARY:

Staff will present and discuss with Planning Commission a draft ordinance to address Puget Sound Energy (PSE)'s request for code amendments in support of their broad work plan to upgrade electrical transmission and distribution lines to better provide service to the residents of the City of Bainbridge Island.

BACKGROUND: Puget Sound Energy (PSE) submitted an application for code amendments under Bainbridge Island Municipal Code (BIMC) 2.16.180. The code amendments are requested to support the installation, upgrade and maintenance of PSE's linear distribution and transmission line infrastructure. At the February 22, 2024, Planning Commission meeting, commissioners moved to separate out the various code amendment requests to be considered at several Planning Commission meetings. The March 14, 2024, discussion focused on the PSE-requested amendments to aquifer recharge protection area designation requirements; requested amendments to the standards for regulated wetlands and their buffers; requested amendments to zoning setback requirements; and requested amendments to height requirements in the zoning code. The March 28th discussion focused on the PSE-requested amendments to BIMC 2.16.020.D regarding who can apply for permits. The April 25th presentation reviewed the entirety of all code amendment requests by PSE and discussed staff preliminary recommended code language and options. Tonight's discussion will take a look at a draft ordinance based on the previous conversations with the Planning Commission, staff recommendation, and PSE requested changes.

ATTACHMENTS:

ORDINANCE NO. 2024-04

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to requirements for primary utility development permits, amending BIMC Section 2.16.020.D, Section 16.20.100.E.1, Section 16.20.140.G.2, Section 16.20.140.H.5, Section 18.09.030.F.2, Table 18.12.020-2, Table 18.12.020-3, and Table 18.12.040.

WHEREAS, Goal U-14 of the Utility Element of the City's Comprehensive Plan includes a commitment to plan together with the electric service provider to undertake energy efficiency improvements and other alterations to provide capacity for future growth and encourages the electric service provider to improve reliability, with particular attention to adding transmission redundancy and mitigating impacts on service from storms or other natural events; and

WHEREAS, Puget Sound Energy (PSE) has requested several amendments to Bainbridge Island's Municipal Code in order to continue to maintain, upgrade, and install new electric infrastructure that supports reliability and capacity needs for the City of Bainbridge Island; and

WHEREAS, primary utilities are defined in the City's municipal code to include both parcel-based facilities such as electrical substations as well as linear facilities such as electrical distribution or transmission lines that may involve many parcels; and

WHEREAS, in accordance with BIMC.2.16.180, Puget Sound Energy applied for a request to amend the Bainbridge Island municipal code in April 20, 2022;

WHEREAS, City planning staff and PSE engaged in collaborative discussion of the scope of the request; and

WHEREAS, an updated application for legislative review of land use regulations was submitted by Puget Sound Energy on February 6, 2024; and

WHEREAS, the Planning Commission considered the Puget Sound Energy application and draft Ordinance No. 2024-04 on February 22, 2024, March 14, 2024, March 28, 2024, April 25, 2024; May 23, 2024; and

WHEREAS, after timely and proper notice the Planning Commission held a public hearing on Ordinance No. 2024-04 on XXXX, 2024, and XXXX; and

WHEREAS, the Planning Commission moved to XXXXX related to amendments to the BIMC code sections 2.16.020.D, 16.20.100.E.1, 16.20.140.G.2, 16.20.140.H.5 and 18.09.030.F.2 and tables 18.12.020-2, 18.12.020-3 and 18.12.040 to the City Council; and

WHEREAS, notice was given on XXXX, to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106; and

WHEREAS, on May 17, 2024, the City's SEPA Responsible Official issued a Determination of Nonsignificance in accordance with State Environmental Policy Act regulations (WAC XXX); and

WHEREAS, on XXXX the City Council discussed the Planning Commission recommendation on Ordinance No. 2024-04.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 2.16.020.D of the Bainbridge Island Municipal Code is hereby amended to read as follows:

D. Who Can Apply.

1. A property owner, a contract purchaser, or an agent of the owner with authorized written proof of agency may apply for any type of permit.
2. A resident who is not the owner of the dwelling may apply for permits and licenses pertaining to a home occupation.
3. A public or private utility that has been granted rights of eminent domain for the purpose of manufacturing, transmitting or selling electric power under RCW 80.32.060 provided:
 - a. The utility demonstrates that it has attempted to directly contact all property owners whose properties are included in the project proposal. Such an attempt to make contact shall:
 - i. Be demonstrated through a notice sent by the applicant via certified mail to affected property owners at addresses listed on the property tax records of Kitsap County; and
 - ii. Be mailed a minimum of 14 days prior to application; and
 - iii. The notice shall state that the utility will be filing an application with the City, the owner's property will be affected by the project, and the application will include work to be performed on their property.
 - b. [OPTION 1] Prior to permit issuance, the applicant shall be required to provide documentation of owner authorization .
 - b. [OPTION 2] Prior to building or construction permit issuance, documentation of owner authorization shall be required.

- b. [OPTION 3] Permit approvals shall be conditioned to require that no construction work may occur on any individual property until owner authorization has been secured.

~~3~~ 4. Any person may request an interpretation of the zoning code, shoreline master program, or subdivision regulations. The director of planning and community development may issue interpretations of the zoning code, shoreline master program, or subdivision regulations as needed, and shall post issued interpretations on the city website.

Section 2. Section 16.20.100.E.1 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

1. Any proposed development or activity requiring a site assessment review (SAR) pursuant to Chapters 15.19 and 15.20 BIMC located within the R-0.4, R-1 or R-2 zoning designations requires designation of an ARPA; except, designation of an ARPA is not required for the following:

- a. Removal of invasive species;
- b. Construction of public trails provided the standards set forth in BIMC 16.20.110.G.5.a through e are met;
- c. Replacement of hard surfaces; ~~and~~
- d. Development and activities located on properties protected in perpetuity by a legal instrument acceptable to the city attorney wherein at least 65 percent of the site meets the development standards for aquifer recharge protection areas of this section; and
- e. Activities related to the installation, upgrade, and maintenance of primary utility facilities, when located on property not owned in fee by the utility, but that has complied with the notification requirements of BIMC 2.16.020.D, as amended, provided the applicant submits a vegetation restoration plan for approval by the City Arborist. A proposed vegetation restoration plan shall include:
 - i. Tree inventory showing all existing trees and indicating location, number, and size of proposed trees to be removed. Size shall be provided in both diameter at breast height (DBH) in inches and estimated canopy square footage.
 - ii. A minimum ratio of two replacement trees for each tree removed (2:1), or demonstrate equal canopy coverage replacement within 30 years. Replacement trees may be planted at a nearby location.

Additional tree planting may be required to achieve sufficient groundwater recharge, to the satisfaction of the City Arborist.

iii. Shrubs and other vegetation may be substituted for trees in locations where trees are infeasible or inappropriate due to compatibility with utility use, pending review and approval by the City Arborist.

iv. Replacement vegetation shall demonstrate an emphasis on the use of native and climate resilient species.

Section 3. Section 16.20.050 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

A. Existing Structures and Related Improvements. Structures and related improvements that were legally built or vested prior to the effective date of the ordinance codified in this chapter that do not meet the requirements of this chapter may continue to exist in their present form, and may be altered, including remodeled, reconstructed, or expanded, if such alteration complies with the provisions of this section and all other applicable sections of this chapter.

B. Existing buildings that were legally built or vested prior to the effective date of the ordinance codified in this chapter may be altered only one time within the lifetime of the structure, and:

1. The expansion of the footprint is outside a landslide hazard area or landslide hazard area setback unless required for safety or seismic upgrades;
2. Any expansion of the footprint is located only within a critical area buffer. No expansion of the footprint is allowed within a wetland or fish and wildlife habitat conservation area;
3. Any expansion of the footprint within a critical aquifer recharge area is located outside the aquifer recharge protection area pursuant to BIMC 16.20.100.E.
4. Cantilevers over critical areas are not allowed;
5. The expansion of the footprint at ground level does not exceed 500 square feet;
6. Any expansion of the footprint is used only as indoor living space or to accommodate accessibility;
7. Any expansion of the footprint is no closer to the critical area than the existing footprint; and

8. If a building is harmed or destroyed by more than 50 percent of its square footage, the building must be reconstructed in compliance with the requirements of this chapter.

C. Existing property improvements other than buildings, including driveways, parking areas, yards and landscaped areas, play areas, storage areas, decks less than five feet in height, patios, and similar improvements that were legally established or vested prior to the effective date of the ordinance codified in this chapter may be altered if:

1. Any alteration is in substantially the same location as the original property improvement;
2. Any expansion of the footprint is located only within the required buffer. No expansion of the footprint is allowed within the critical area itself and cantilevers over critical areas are not allowed;
3. Any expansion of the footprint is no closer to the critical area than the existing footprint; and
4. Any expansion of the footprint within a critical aquifer recharge area is located outside the aquifer recharge protection area pursuant to BIMC 16.20.100.E.

D. Existing electric transmission and distribution lines that traverse or are directly located in wetlands, may be altered, maintained and upgraded in regulated wetlands and their buffers in ways that do not meet the precise terms of an exempt activity if:

1. The applicant demonstrates that strict application of the critical area regulations would unreasonably restrict the ability to provide utility services to the public;
2. The alteration, maintenance or upgrade is the minimum necessary and there is no practicable alternative location or construction activity with less adverse impact on the functions and values of the critical area and critical area buffer;
3. Proposed vegetation removal is unavoidable and is demonstrated to be a danger to the transmission or distribution lines. Vegetation removal shall follow the procedure under BIMC 16.20.090.C. Any area of disturbance shall be revegetated with appropriate native or equivalent vegetation at not less than preconstruction vegetation densities or greater, upon completion of construction or within a timeframe proposed to and approved by the Director. The Director retains the right to require additional mitigation if the proposed revegetation does not sufficiently protect the functions and values of the wetland and its buffer. The utility or responsible landowner, if vegetation replanting occurs on private property outside the utility easement, shall ensure that such vegetation survives or is replanted if the replantings fail within a minimum of five years;

5. The alteration, maintenance or upgrade does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site; and

6. The alteration, maintenance or upgrade avoids and minimizes the impact on critical areas in accordance with required mitigation sequencing and demonstrates no net loss as described in BIMC 16.20.030, and is consistent with best available science.

7. The Director may require additional mitigation measures.

~~D. E.~~ Buffer modifications pursuant to BIMC 16.20.110 and 16.20.140 shall not be granted for existing development.

~~E. F.~~ Alterations permitted by this section must comply with other applicable city code or land use review requirements and require submittal of a critical areas permit application in accordance with the permit and review procedures required for the affected critical area(s). (Ord. 2018-01 § 2 (Exh. A), 2018)

Section 3. Section 16.20.140.G.2 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2. The following development, uses and activities are prohibited in Category I and II wetlands:

- a. Fish hatchery;
- b. Golf course;
- c. Mineral extraction;
- d. Public facility;
- e. Public communications tower;
- f. New public road/street;
- g. New private access road or driveway;
- h. Stormwater retention/detention facility; or
- i. Primary utility. Exceptions for electric transmission and distribution lines may apply in Category II wetlands if the provisions of BIMC 16.20.140.H.5 are met.

Section 4. Section 16.20.140.H.5 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

5. Utilities. Installation of utilities within wetlands or their required buffers may be allowed when the following standards are met:

- a. Construction of new utilities outside the road right-of-way or an existing utility corridor may be permitted in wetlands or wetland buffers, only when no reasonable alternative location is available and the utility meets the requirements for installation, replacement of vegetation and maintenance

outlined below, and as required in the filing and approval of applicable permits and special reports required by this chapter.

b. Sewer or On-Site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in wetland buffers only when:

- i. The applicant demonstrates it is necessary to meet state and/or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation); and/or
- ii. There are no other practicable or reasonable alternatives available and construction meets all other applicable requirements of this section. Joint use of the sewer utility corridor by other utilities may be allowed.

c. New utilities shall not be allowed when the wetland or buffer has known locations of federal- or state-listed endangered, threatened, monitored or sensitive species, heron rookeries or nesting sites of raptors which are listed as species of concern, except in those circumstances where an approved habitat management plan indicates that the utility corridor will not significantly impact the wetland or wetland buffer.

d. New utility construction and maintenance shall protect the wetland and buffer environment by utilizing the following methods:

- i. New utilities shall be aligned to avoid tree removal to the greatest extent practicable.
- ii. Any area of disturbance resulting from installation of a utility shall be revegetated with appropriate native or equivalent vegetation at preconstruction densities or greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility or landowner responsible for installation shall ensure that such vegetation survives.
- iii. Any access for maintenance shall be provided as much as possible at specific points, rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas.
- iv. The director may require additional mitigation measures.
- v. Utility maintenance shall include the following measures to protect the wetland and buffer environment:

A. Painting of utility equipment such as power towers shall not be sprayed or sandblasted. Lead-based paints are prohibited.

B. No pesticides, herbicides or fertilizers may be used in wetland areas or their buffers except those approved by the U.S. Environmental Protection Agency (EPA) and Washington Department of Ecology and applied by a licensed applicator in accordance with the safe application practices on the label.

e. Construction of new distribution and transmission utility lines may be permitted in category II wetlands and their buffers provided all the other applicable sections of this chapter are met, and:

i. The applicant demonstrates that strict application of the critical area regulations would unreasonably restrict the ability to provide utility services to the public;

ii. There is no practicable alternative location with less adverse impact on the functions and values of the critical area and critical area buffer;

iii. Construction of the utility is within or directly adjacent to an existing road right-of-way;

v. The construction of new distribution and transmission utility lines does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site; and

vi. The construction of new distribution and transmission utility lines avoids and minimizes the impact on critical areas in accordance with required mitigation sequencing and demonstrates no net loss as described in BIMC 16.20.030, and is consistent with best available science.

Section 5. Section 18.09.030.F.2 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2. Utility, Primary.

a. Primary utility facilities and equipment are subject to standards in BIMC 16.12.030.C.7, Utilities (Primary and Accessory), and BIMC 16.20.~~130.C.11~~, critical areas regulations.

b. Replacement, maintenance or upgrade of existing poles and equipment within or adjacent to an existing utility corridor or right-of-way is considered a permitted ("P") use. A new pole added along an existing distribution or transmission line that

does not exceed the height of the surrounding existing poles is considered part of an upgrade to that utility corridor.

i. Replacement, maintenance or upgrade of a distribution utility pole or a transmission utility pole exceeding the height ~~and/or location standards~~ established in ~~Table 18.12.040~~ Table 18.12.020-2 and Table 18.12.020-3 shall require ~~minor site plan review~~ minor conditional use approval ~~in accordance with BIMC 2.16.040~~ prior to installing the replacement pole. Replacement poles shall not be moved more than 20 feet from the original location.

Section 6. Table 18.12.020-2 of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit A.

Section 7. Table 18.12.020-3 of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit B.

Section 8. Table 18.12.040 of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit C.

Section 9. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 10. This ordinance shall take effect and be in force five (5) days from its passage and publication as required by law.

PASSED by the City Council this XXX day of XXX, 2023.

APPROVED by the Mayor this XXX day of XXX, 2023.

Joe Deets, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, MMC, City Clerk

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NUMBER:

2024-04

DRAFT

Exhibit A to Ordinance No. 2024-04

EXCERPT Table 18.12.020-2 Standard Lot Dimensional Standards for Residential Zone Districts

ZONING DISTRICT DIMENSIONAL STANDARD	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14
MAXIMUM BUILDING AND STRUCTURE HEIGHT [4]										
Note: Bonus may not be available in the shoreline jurisdiction										
All lots										
Base	30 ft.	30 ft.	25 ft.				30 ft.	35		
Bonus for Nonresidential Uses If Conditional Use Permit Conditions Met	35 ft.	35 ft.	30 ft.				35 ft.	40 ft.	40 ft. See BIMC 18.12.03 0.B	
Distribution utility poles	55 feet in height above grade. Alternative height limits may apply if additional conditional use permit provisions of BIMC Title 2.16.050.F are met. See BIMC 18.09.030.F.2 for use standards.									
Transmission utility poles	Up to a 25 percent increase above existing pole height above grade with a maximum height of 100 feet. Alternative height limits may apply if additional conditional use permit provisions of BIMC Title 2.16.050.F are met. See BIMC 18.09.030.F.2 for use standards.									
Exemption	Alternative height limits may apply for nonresidential uses if additional conditional use permit provisions of BIMC Title 2 are met. Some encroachments through height limits are permitted under BIMC 18.12.040.									
Shoreline Jurisdiction	See Table 16.12.030-2, Dimensional Standards Table, and BIMC 16.12.030.B.3.i, Regulations – Shoreline Structure Setback View Requirement.									

Exhibit A to Ordinance No. 2024-04

- [4] For community and educational facilities (as listed in Table 18.09.020), spires, towers and other vertical features with horizontal cross-sections no more than five percent of the footprint of the primary structure may have a maximum height of 10 feet above the maximum base height, and shall be reviewed through a conditional use permit.**

DRAFT

Exhibit B to Ordinance No. 2024-04

EXCERPT Table 18.12.020-3 Standard Lot Dimensional Standards for Mixed Use Town Center and “Other” Zone Districts

ZONING DISTRICT DIMENSIONAL STANDARD	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC 18.12.030.C]				
MAXIMUM BUILDING AND STRUCTURE HEIGHT [5]									
Note: Bonus may not be available in the shoreline jurisdiction									
Base	35 ft.; 25 ft. max. south of Parfitt	25 ft.; 35 ft. north of High School Road	25 ft.	35 ft.	BIMC 18.12.030.C standard height north of Winslow Way; 35 ft. south of Winslow Way	35 ft.	35 ft.	35 ft.	35 ft. except that Chapter 16.12 BIM C applies within shoreline jurisdiction
Bonus 1 if parking under building [6]	45 ft.; 35 ft. south of Parfitt	35 ft.; 45 ft. north of High School Road	35 ft.	45 ft.	BIMC 18.12.030.C optional height north of Winslow Way; 45 ft. south of Winslow Way	45 ft.			
Bonus 2 for Nonresidential Uses with Major Conditional Use Permit							45 ft.	45 ft.	45 ft.
Distribution utility poles	55 feet in height above grade. Alternative height limits may apply if additional conditional use permit provisions of BIMC Title 2.16.050.F are met. See BIMC 18.09.030.F.2 for use standards.								

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<u>Transmission utility poles</u>	<u>Up to a 25 percent increase above existing pole height above grade with a maximum height of 100 feet. Alternative height limits may apply if additional conditional use permit provisions of BIMC Title 2.16.050.F are met. See BIMC 18.09.030.F.2 for use standards.</u>
Bonus 3 Structure Height	Alternative height limits may apply if the conditional use permit provisions of BIMC Title 2 are met. Some encroachments through height limits are permitted under BIMC 18.12.040.

[5] When property adjoins a lower density residential zone, except in the ferry terminal district, north of Winslow Way, for the first 30 feet of the building from the property line of an adjoining lower density residential zone, the building height shall be the building height of the adjoining lower density residential zone. Optional building height allowed in the adjoining lower density residential district through a conditional use permit may be requested for projects within the mixed use town center and high school road zones through the site plan review process. For building height requirements in the ferry terminal district, north of Winslow Way, reference BIMC [18.12.030.C](#).

[6] The bonus height is available when parking is located underground or under the occupiable space of the planned building. If parking is located under 50 percent or less of the occupiable space, the bonus may only be used for a portion of the building footprint twice as large as the area with parking located beneath.

[7] The bonus density is available when provisions of BIMC [18.21.050](#) are met and all bonus FAR is applied to the residential component of the mixed use development.

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EXCERPT Table 18.12.040: Permitted Setback/Height Modifications

Type of Encroachment	Encroachment Permitted	Conditions
Permitted Setback Modifications		
Fence or combined fence and berm up to 6 feet high	In any required setback subject to applicable regulations in BIMC Title 15	Except as provided in BIMC 18.12.040.B and Chapter 16.12 BIMC
Nonscreening fences or combined nonscreening fence and berm up to 8 feet high	In any required setback subject to applicable regulations in BIMC Title 15	Except as provided in Chapter 16.12 BIMC
Chimneys, flues, awnings, bay windows, and greenhouse windows	Up to 18 inches into any required setback	
Covered porches, bay windows and eaves within the Ericksen Avenue overlay district	Up to 5 feet into the front yard	Bay windows must be cantilevered outward from the wall, and may not result in any portion of the building floor area extending into the setback
Any structures, including but not limited to uncovered steps, porches, and decks less than or equal to 30 inches in height	Up to 2 feet into front and side setbacks. Up to 5 feet into required rear setbacks.	

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Eaves	May extend up to 24 inches in any required setback except shoreline structure setback	
At or near grade structures such as uncovered patios, sidewalks, and driveways	In any required setback	May not exceed 4 inches in height
Signs	In any required setback	Must conform to Chapter 15.08 BIMC
Overhead or underground <u>Primary Utilities</u> and <u>Accessory Utilities</u> when they are not the <u>primary use of the site</u>	In any required setback, perimeter or roadside buffer	Must conform to Chapters 16.12 and 16.20 BIMC. Does not apply to above ground utilities such as propane tanks.
Composting bins	In side or rear setback areas	
Bioretention/rain gardens	In any required setback	In accordance with Chapter 15.20 BIMC
Rain barrels/cisterns	In any required setback	In accordance with Chapter 15.20 BIMC
Wall-mounted on-demand hot water heaters	Up to 18 inches into side or rear setbacks	Permitted if buffered or enclosed to prevent noise impacts to neighboring properties
Below-ground geothermal equipment	In any required setback, perimeter or roadside buffer	Must conform to Chapters 16.12 and 16.20 BIMC. Permitted if any excavated areas are

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		promptly relandscaped after installation is complete.
Rockeries and retaining walls less than 4 feet in height	In any required setback	Rockeries and retaining walls greater than 4 feet in height may be permitted with qualified geotechnical engineer determination, and city concurrence, that it is necessary for slope stabilization.
Public communications tower	In any required setback subject to applicable regulations in BIMC Title 15	Must conform to Chapters 16.12 and 16.20 BIMC
Permitted Height Modifications		
Small wind energy generators	Up to 18 inches above the maximum building height in the district	
Solar panels	Up to 18 inches above the maximum building height in the district	
Noncommercial, nonparabolic antennas affixed to noncommercial communication towers	Up to 50 feet in height above grade	
One flagpole per parcel	Up to 45 feet in height above grade	

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Public communications tower	Up to 120 feet in height above grade	A building permit is required for a public communications tower. A conditional use permit shall be required for a public communications tower to be constructed between 71 feet and 120 feet above grade. A public communications tower shall not exceed 120 feet in height.
<u>Distribution utility poles</u>	<u>Up to 55 feet in height above grade</u>	<u>Replacement poles over 55 feet in height, see BIMC 18.09.030.F.2.b. For new distribution utility facilities or corridors, see Table 18.09.020. Poles shall not be moved more than 20 feet from the original location unless permitted under BIMC 18.09.030.F.2.b.</u>
<u>Transmission utility poles</u>	<u>Up to a 25 percent increase above existing pole height above grade with a maximum height of 100 feet</u>	<u>Replacement poles over the 25 percent increase or 100 feet in height, see BIMC 18.09.030.F.2.b. For new transmission utility facilities or corridors, see Table 18.09.020. Poles shall not be moved more than 20 feet from the original location unless permitted under BIMC 18.09.030.F.2.b.</u>
<u>Utility structures existing on the effective date of the ordinance codified in this subsection</u>	<u>Existing height</u>	<u>May also be replaced or modified; provided, that the structure is not larger or taller than the original structure and is not</u>

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		<u>moved more than 20 feet from its original location.</u>
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